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IN THE

Supreme Court of the United States

October Term, 1941.

No. 1188

THE UNION TRUST COMPANY OF THE DISTRICT OF COLUMBIA, Executor of the Estate of CAROLINE G. CAUGHEY, *Petitioner,*

v.

GUY T. HELVERING, Commissioner of Internal Revenue, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT

UNION TRUST COMPANY OF THE DISTRICT OF COLUMBIA Executor, Estate of CAROLINE G. CAUGHEY, *Petitioner,*

By GEORGE E. HAMILTON,
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The Union Trust Company of the District of Columbia, Executor of the Estate of Caroline G. Caughey, respectfully prays that a writ of certiorari issue to review the judgment of the United States Circuit Court of Appeals for the Fourth Circuit, entered in the above entitled cause on January 29, 1942 (R. 21), which reversed the decision of the Board of Tax Appeals.

SUMMARY STATEMENT.

The petitioner filed a petition in the United States Board of Tax Appeals for a re-determination of a deficiency in estate tax asserted by respondent, in the sum of $39,390.05. (R. 21).

Petitioner, incorporated under the laws of the United States for the District of Columbia, is Executor and Trustee under the Will of Caroline G. Caughey, who died domiciled in the District of Columbia on July 24, 1936 (R. 1).

Decedent, after making certain bequests and directions, not here involved, devised and bequeathed the residue of her estate to the petitioner, as trustee. The petitioner was directed to convey decedent's country home, called Rockwood Manor, to the National Girl Scouts, Inc., to be utilized by them as a character building center, provided that the conveyance should be subject to the condition that in the event the Girl Scouts abandoned the property or did not use it as a means of character building or help to the cause, it should go to the Esther Chapter of the Eastern Star for their good work and use (R. 15, 17).

Decedent directed the payment of the net income monthly to her husband, John Wilson Caughey, and gave him the exclusive use of her home at 3045 N Street N. W., Washington, D. C., and the furnishings therein, and directed the petitioner, should illness, accident or misfortune require more than the net income monthly for his proper care and support, to contribute from the corpus of the trust such additional sum or sums as to sufficiently and properly care for him in his time of need (R. 16).

Decedent further directed that upon the death or remarriage of the husband all real estate and furnishings were to be sold and one-half of the proceeds thereof, together with one-half of the trust estate, should be paid over to the National Girl Scouts, Inc. if they were still operating Rockwood Manor, to be used in developing and improving the property, not in salaries to officers, and if they had abandoned the property or were not using it for character building purposes said amount should be paid over to the Esther Chapter of the Eastern Star (R. 17).

Decedent further provided that the remaining one-half of the trust estate should be held by petitioner for a period of twenty years after the death of the husband, and at that time the same should be paid over to the National Girl

Scouts, Inc. if then in possession of Rockwood Manor, and, if not, then to the Esther Chapter of the Eastern Star (R. 18).

At the time of decedent's death John Wilson Caughey was seventy-six years old and had a life expectancy, according to the Table of Mortality, of 6.11 years. He was in good health and at the time of the proceedings in the Board of Tax Appeals had lived at the house on N Street continuously since his wife's death. His yearly expenses for the four years after his wife's death amounted to approximately $4,000.00. (R. 3).

The gross estate of the decedent amounted to $364,506.29 (R. 4). The residuary estate was valued at more than $310,000.00 (R. 24). From the date of decedent's death to December 1st, 1939, the net income distributable to the said John Wilson Caughey, after the payment of all charges, including taxes, repairs and all expenses of the N Street home, compensation to the Trustee, and yearly payments other than to the husband, as provided in the Will, was as follows:

1936 (five months)	$ 4,463.99
1937	$ 9,056.19
1938	$ 8,077.90
1939	$10,513.54

(R. 4).

Pursuant to the provision of the Will petitioner duly conveyed Rockwood Manor to the National Girl Scouts, Inc. by Deed dated January 21st, 1938, and it has been occupied by that organization continually since that time (R. 4). In the Estate Tax return Rockwood Manor was valued at $38,375.00 (R. 5).

The National Girl Scouts, Inc. is a domestic corporation organized and operated exclusively for one or more of the purposes enumerated in Section 303 (a) (3) of the Revenue Act of 1926 as amended (R. 4).

The Esther Chapter of the Eastern Star is not such an organization but is a constituent chapter of the Grand Chapter of the Order of the Eastern Star of the District of Columbia (R. 4).

Respondent, in his determination of the deficiency, allowed the deduction of the gift to the Girl Scouts of Rockwood Manor as a charitable gift under the Statute, but disallowed as a deduction the value of the net residuary estate (R. 5). The Board of Tax Appeals overruled the respondent as to the value of the net residuary estate (R. 11). The Circuit Court of Appeals reversed the Board of Tax Appeals and disallowed the value of the same as a charitable deduction (R. 27).

QUESTION PRESENTED.

Is the value of the remainder estate bequeathed to the National Girl Scouts, Inc., after deducting expenses and the value of the life estate to the husband, deductible as a charitable bequest under the Statute?

REASONS FOR ALLOWANCE OF WRIT

1. The case raises an important question of Federal law involving estate tax and the deductibility of charitable bequests under that law.

2. The decision of the Circuit Court of Appeals is in conflict with the principle laid down by this Court in *Ithaca Trust Company* v. *United States*, 279 U. S. 151, in that it sets a higher standard of certainty than the standard set by this Court in determining the deductibility of charitable bequests.

Wherefore, petitioner prays that a writ of certiorari be issued to review the judgment of the Circuit Court of Appeals for the Fourth Circuit.

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